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**(2026) 01 UK CK 1888**

**In the Uttarakhand High Court**

**Case No : Writ Petition (M/S) No. 1706 Of 2022**

Kaushalya Bansal And Another

APPELLANT

Vs

Sharad Kumar Gupta And Others

RESPONDENT

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**Date of Decision : 08-01-2026**

**Acts Referred:**

Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent And Eviction) Act, 1972 —  
Section 22  
Constitution Of India, 1950 — Article 227

**Citation : (2026) 01 UK CK 1888**

**Hon'ble Judges : Ashish Naithani, J**

**Bench : Single Bench**

**Advocate : Piyush Garg, Neeraj Garg**

**Final Decision : Dismissed**

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## Judgement

Ashish Naithani, J

1. The present writ petition under Article 227 of the Constitution of India has been instituted by the Petitioners, who are tenants of a shop situated at Jhanda Chowk, Rishikesh, District Dehradun, assailing the orders passed by the Prescribed Authority and the appellate authority under the provisions of the U.P. Act No. 13 of 1972.

2. The dispute traces its origin to the filing of a release application by Respondents over the findings recorded by statutory authorities, nor does it substitute its own view merely because another view is possible. Interference is warranted only where the order impugned discloses patent perversity, manifest miscarriage of justice, jurisdictional error, or a failure to consider material evidence.

3. In the release application, Respondent No.1 asserted that the shop in question was originally let out to the predecessor of the Petitioners and that after the demise of the original tenant, the tenancy devolved upon the Petitioners and the

pro forma respondents. It was further pleaded that pursuant to a partition decree, the shop fell in the exclusive share of Respondent No.1.

4. Respondent No.1 pleaded that although he owns a hotel and certain other properties, the same are either old constructions, commercially unviable, or unsuitable for the proposed business. It was specifically pleaded that for running a furniture and interior business, a larger consolidated space was required and that the shop in question was essential for such purpose.

5. The Petitioners filed detailed objections to the release application, disputing the alleged bona fide need. They asserted that Respondent No.1 is in possession of multiple commercial properties, including a hotel building having several shops, open land near GMVN guest house, and other commercial spaces which are either vacant or recently let out, thereby negating any genuine necessity.

6. The Petitioners also pleaded that the son of Respondent No.1 is permanently settled abroad and has no intention of returning to India for carrying on any business, and that the release application was a mere pretext to evict the tenants.

7. Upon appreciation of evidence, the Prescribed Authority allowed the release application. The appeal preferred by the Petitioners under Section 22 of the Act was dismissed by the appellate authority, affirming the findings regarding bona fide need and comparative hardship.

8. Aggrieved thereby, the Petitioners invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. An interim order was granted on 21.07.2022 protecting the Petitioners from dispossession, subject to deposit of use and occupation charges, which interim protection continued during the pendency of the writ petition.

9. Learned counsel for the Petitioners assailed the impugned orders with considerable emphasis and submitted that the findings recorded by the Prescribed Authority and the appellate authority are vitiated by non-consideration of material evidence and by misapplication of the settled principles governing bona fide requirement.

10. It was argued that Respondent No.1 admittedly owns and controls several commercial properties, including a hotel building with multiple shops, open commercial land, and other business premises, some of which are either vacant or have been recently let out. According to learned counsel, such conduct is wholly inconsistent with a plea of bona fide need.

11. Learned counsel further contended that the alleged proposed business is illusory. It was submitted that Respondent No.1 himself is not carrying on any such business and his only son is permanently settled abroad with no intention to return. The plea of future business requirement was contended to be speculative and unsupported by any concrete material.

12. It was also argued that the authorities below failed to correctly assess comparative hardship. Learned counsel submitted that the Petitioners are long standing tenants dependent on the shop for their livelihood, whereas Respondent No.1 has multiple alternative sources of income and accommodation.

13. Per contra, learned counsel for the Respondents supported the impugned orders and submitted that both the authorities below have returned concurrent findings of fact after due appreciation of evidence. It was contended that the adequacy or sufficiency of accommodation cannot be dictated by the tenant and that the landlord is the best judge of his requirement.

14. Learned counsel for the Respondents further submitted that the availability of other properties does not ipso facto disentitle a landlord from seeking release if those properties are unsuitable for the intended purpose. It was argued that the findings recorded are neither perverse nor based on irrelevant considerations.

15. It was lastly contended that the jurisdiction of this Court under Article 227 is supervisory and not appellate, and that the Petitioners are seeking a reappraisal of evidence, which is impermissible in such proceedings.

16. Heard learned counsel for the Parties and perused the records.

17. In the present case, the Prescribed Authority as well as the appellate authority have concurrently recorded findings on the issues of bona fide requirement and comparative hardship. These findings are based upon pleadings, documentary evidence, and oral submissions advanced before them.

18. A perusal of the impugned orders reflects that the plea of bona fide need set up by Respondent No.1 has been examined in detail. The authorities have taken note of the nature of the business proposed, the requirement of space for such business, and the explanation furnished by the landlord regarding the alleged alternative accommodations.

19. It is settled law that the landlord is the best judge of his requirement. The tenant cannot dictate to the landlord as to how and where he should carry on his business, nor can the Court compel the landlord to adjust himself in a manner contrary to his stated requirement, unless the plea is shown to be a mere pretext or demonstrably mala fide.

20. Insofar as the argument regarding availability of alternative properties is concerned, the authorities below have not brushed aside this contention cursorily. The impugned orders reflect a conscious consideration of the nature, location, and suitability of the other properties relied upon by the Petitioners. Mere ownership of other properties does not, by itself, negate bona fide requirement, particularly when the landlord furnishes reasons as to their unsuitability for the intended purpose.

21. The contention that the proposed business is speculative or illusory has also been examined by the authorities below. The plea of bona fide requirement does

not mandate that the landlord must already be engaged in the proposed business. A genuine intention to commence business, supported by surrounding circumstances, is sufficient. The findings recorded in this regard cannot be said to be arbitrary or unsupported by material.

22. As regards comparative hardship, the impugned orders demonstrate that the authorities have weighed the respective hardships of the parties. The length of tenancy, dependence of the Petitioners on the shop, and the availability of alternative means were considered. Simultaneously, the requirement of the landlord and the feasibility of the tenant securing alternative accommodation were also assessed.

23. Comparative hardship is essentially a question of fact. Unless the finding is shown to be perverse or based on irrelevant considerations, this Court would be slow to interfere. The Petitioners have not been able to demonstrate that any material factor was ignored or that irrelevant considerations were taken into account.

24. The submissions advanced on behalf of the Petitioners, when closely examined, essentially invite this Court to reassess the evidence and arrive at a different conclusion. Such an exercise would amount to converting the supervisory jurisdiction into an appellate one, which is impermissible.

25. The Court is, therefore, of the considered view that no case of jurisdictional error, perversity, or manifest injustice is made out so as to warrant interference under Article 227 of the Constitution of India.

## ORDER

In view of the foregoing discussion and reasons recorded hereinabove, the writ petition fails and is accordingly dismissed.

The interim order dated 21.07.2022, as extended from time to time during the pendency of the writ petition, stands vacated.

No order as to costs.